

**IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF GEORGIA  
MACON DIVISION**

**RICHARD MONTA JOHNSON, JR., :**

**Plaintiff,**

**V.**

**TAMARSHAY SMITH, Warden,  
(a/k/a TARMARSHE SMITH)**

**Defendant.**

:  
:  
:  
:  
:  
:  
:  
:  
:  
:  
:  
:  
:

**NO. 5:23-cv-00229-MTT-CHW**

**Proceedings under 42 U.S.C. § 1983  
Before the U.S. Magistrate Judge**

**ORDER AND RECOMMENDATION**

On January 2, 2024, Plaintiff was ordered to show cause within 21 days, as to why his case should not be dismissed for failing to keep his address updated as directed. (Doc. 18). He was advised that a failure to comply with the order would result in a recommendation to dismiss his case. (*Id.*) The deadline for Plaintiff to comply has passed. He has not updated his address with the clerk, and the docket reflects that several documents have been returned to the Court as undeliverable with notes that Plaintiff has been released. (Docs. 19-22). Plaintiff has not kept the Court apprised of his address. Additionally, Plaintiff has not filed any document in this case since initiating this action in June 2023. *See* (Docs. 1, 2). It appears that Plaintiff has abandoned this action.

Because Petitioner has failed to comply with the Court's orders or otherwise prosecute this case, it is **RECOMMENDED** that Plaintiff's complaint be **DISMISSED WITHOUT PREJUDICE** pursuant to Rule 41(b) of the Federal Rules of Civil Procedure. *See Brown v. Tallahassee Police Dep't*, 205 F. App'x 802 (11th Cir. 2006). Defendant Smith's motion to set aside default (Doc. 14) is hereby **DISMISSED as moot**.

### **OBJECTIONS**

Pursuant to 28 U.S.C. § 636(b)(1), the parties may serve and file written objections to this Recommendation, or seek an extension of time to file objections, **WITHIN FOURTEEN (14) DAYS** after being served with a copy thereof. Any objection is limited in length to **TWENTY (20) PAGES**. *See* M.D. Ga. L.R. 7.4. The District Judge shall make a de novo determination of those portions of the Recommendation to which objection is made. All other portions of the Recommendation may be reviewed for clear error.

The parties are further notified that, pursuant to Eleventh Circuit Rule 3-1, “[a] party failing to object to a magistrate judge’s findings or recommendations contained in a report and recommendation in accordance with the provisions of 28 U.S.C. § 636(b)(1) waives the right to challenge on appeal the district court’s order based on unobjected-to factual and legal conclusions if the party was informed of the time period for objecting and the consequences on appeal for failing to object. In the absence of a proper objection, however, the court may review on appeal for plain error if necessary in the interests of justice.”

**SO ORDERED AND RECOMMENDED**, this 13th day of February, 2024.

s/ Charles H. Weigle  
Charles H. Weigle  
United States Magistrate Judge